

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
2002 Biennial Review of	)	WC Docket No. 02-313
Telecommunications Regulations	)	
	)	
	)	

**REPLY COMMENTS OF BELL SOUTH**

BellSouth Corporation, for itself and its wholly owned affiliated companies (collectively “BellSouth”), submits the following reply comments in response to the recent *Public Notice* seeking comment in the 2002 Biennial Review of telecommunications regulation within the purview of the Wireline Competition Bureau.<sup>1</sup>

**I. Introduction**

Pursuant to Section 11 of the Telecommunications Act of 1996 (“1996 Act”), “[i]n every even-numbered year . . . , the Commission shall [undertake a] review [of] all regulations issued under [the 1996 Act . . . and] repeal or modify any regulation it determines to be no longer necessary in the public interest.”<sup>2</sup> In the *Notice*, the Commission asks interested parties to identify any such rules and provide comments regarding the rules need for modification or why they should be repealed. BellSouth supports the comments filed by Verizon. As Verizon discussed in its comments, the Commission should eliminate regulations unless the Commission finds they are necessary in the public interest. BellSouth agrees with Verizon that this standard

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<sup>1</sup> *The Commission Seeks Public Comment in 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireline Competition Bureau*, WC Docket No. 02-313 *Public Notice*, FCC 02-267 (rel. Sept. 26, 2002) (“*Notice*”).

<sup>2</sup> 47 U.S.C. § 161.

should be applied to regulations that are currently being considered in other dockets.

Specifically, the Commission should eliminate many of the rules regarding unbundled network elements (“UNE”) and broadband regulations that impose disproportionate burdens on ILECs.

BellSouth also supports the comments of the United States Telecom Association (“USTA”). Specifically, BellSouth agrees with USTA that the interconnection requirements found in 47 C.F.R. § 51.1 *et seq.* should not apply to broadband services. BellSouth has discussed in numerous proceedings the harmful impact these rules would have on the deployment of broadband services.<sup>3</sup> Beyond the rules’ non-applicability to broadband, however, BellSouth contends that certain public notice requirements for network changes should be eliminated for all services.

## **II. The Commission Notice Requirements for Network Changes Are No Longer Necessary**

Section 251(c)(5) of the 1996 Act obligated incumbent local exchange carriers (“ILECs”) to provide “reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier’s facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.” In implementing this section of the 1996 Act, the Commission established the network disclosure rules found at 47 C.F.R. § 51.325-335.<sup>4</sup> These procedures establish a public notice requirement

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<sup>3</sup> See *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et al.*, CC Docket No. 01-338, *et al.*; *In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, CC Docket Nos. 02-33, 95-20 and 98-10, *Notice of Proposed Rulemaking*, 17 FCC Rcd 3019 (2002); and *In the Matter of Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, CC Docket No. 01-337, *Notice of Proposed Rulemaking*, 16 FCC Rcd 22745 (2001).

<sup>4</sup> The events that trigger the need for a Notice are set forth in 47 C.F.R. § 51.325(a)(1)-(3).

that the ILEC must adhere to before implementing a network change. Essentially, this public notice must be made at the time that the ILEC decides to make for itself or procure from a vendor a device, the design of which affects or relies on a new or changed network interface (the “make/buy point”). If the planned changes do not require the ILEC to make or procure a device, then the make/buy point is when the ILEC makes a definite decision to implement a network change. The public notice period then depends on how long it will take to implement the proposed changes. The standard public notice period is twelve months before implementation of the network change. If the change can be made within six months of the make/buy point, then the public notice may be given pursuant to a short-term notice procedure.

The standard notice allows the ILEC two methods of dissemination of the changes. The first method is by simply filing public notice with the Commission setting forth specific information about the change as required in 47 C.F.R. § 51.327. The second method is by providing the same information through industry fora, industry publications, or the ILEC’s publicly accessible Internet site. If the ILEC chooses the second method, it must also file a Certification with the Commission, which (1) identifies the proposed changes; (2) states that public notice has been given in compliance with other sections of the network disclosure rules; and (3) includes a statement identifying the location of the change information and describing how this information can be obtained.<sup>5</sup>

The short-term notification requirements are the same as for the standard notice except that in addition to the Commission Notice requirements the ILEC must also file a certificate of service with the Commission stating that at least five business days in advance of its filing with the Commission, the ILEC has served a copy of the public notice to each telephone exchange

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<sup>5</sup> BellSouth refers to this Certification as the “Commission Notice” throughout these comments. The Commission Notice is the requirement that BellSouth seeks to have eliminated.

service provider that directly interconnects with the ILEC's network. The certificate must also include the name and address of each telephone exchange service provider that was served. Under the short-term notice procedures, the Commission will release a Public Notice of the short-term notice and the short-term notice shall be deemed final on the tenth business day after the Commission's release unless a party files an objection.<sup>6</sup>

The rules implementing the network disclosure rules of the 1996 Act were based on no actual experience of how carriers would interact with each other and very little knowledge of how the Internet would affect business. Since that time, the Internet has become a medium unlike any other in providing information to interested parties. Every carrier that interconnects with BellSouth has access to and uses the Internet in its relationship with BellSouth. Indeed, it is BellSouth's understanding that every interconnection carriers has access to and uses the BellSouth interconnection website. It is BellSouth's further understanding that these carriers typically check and use BellSouth's interconnection Internet site daily. And it is through this use that such carriers learn of BellSouth's network changes, not through the Commission's public notice system. Because the Internet has become a much faster and more effective way of communicating network changes, the public notice requirements are no longer necessary.

As Verizon discussed in its comments, the Commission should keep only those regulations that are necessary to serve the public interest. While the public interest continues to be served through public disclosures of network changes, the archaic requirement that such public disclosures must be performed through the Commission has long out-lived its usefulness. Not only are these requirements costly for the ILECs, they are time consuming and burdensome on the Commission staff to process and then put out a public notice. With the availability of the

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<sup>6</sup> The requirement that the Commission release a Public Notice in a short-term notice scenario is also part of the Commission Notice that BellSouth seeks to be eliminated.

Internet, these costs should be an embarrassment to the Commission as the leader of innovation and pioneer of the information and technology age. The Commission should be encouraging carriers to use available technology for greater efficiencies. Accordingly, the Commission should eliminate Commission Notice requirements when the ILEC uses the Internet to disseminate network changes to the public.

The elimination of these Commission Notice requirements should apply for both the standard notice and the short-term notice. As stated previously, it is BellSouth's understanding that carriers access and use BellSouth's interconnection website daily, thus carriers would have ample notice of network changes – equal in content and actually faster than through the Commission's notice procedures – through the website.

Moreover, the certification and the public notice requirements should be eliminated from the short-term notice rules. As discussed above, under the short-term notice, the ILEC must serve every carrier affected by the network change with a copy of the public notice. This rule could remain in effect. Thus, even if the public notice rules were eliminated, every time an ILEC made short-term notice, it would place the change on its Internet website and continue to serve all affected carriers with notice of the network change.<sup>7</sup> Just as with the current procedures, the affected carriers would have ten days from the date of service to file objections with the Commission. If no carrier filed objections within the ten-day timeframe the notice would become final.

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<sup>7</sup> The Commission could likewise keep the requirement that the ILEC must file a statement with the Commission that the ILEC has served every telephone exchange carrier that interconnects with the ILEC's network with a copy of the information regarding the change. This would ensure that ILECs are serving the telephone exchange carriers with this information and will also put the Commission on notice that an affected carrier could file objections to the change.

The elimination of the Commission Notice filing requirement is not only important because it is no longer necessary to serve the public interest and therefore all costs incurred to comply, for both the ILECs and the Commission, are wasteful, but in many cases the Commission Notice and public posting requirement for the short-term notice can adversely impact an ILEC's ability to implement much needed changes in a timely manner. BellSouth has experienced situations where even though it has posted changes to the Internet and served all affected carriers with information regarding the change, the Commission delayed releasing the Public Notice. Because the change could not occur until ten days after release of the Public Notice, BellSouth was forced to delay making its changes.<sup>8</sup> These network changes did not adversely impact any of the telephone exchange carriers interconnected to BellSouth's network and, in fact, no such carrier filed objections to the change once the Commission finally released the Public Notice.<sup>9</sup> Thus, the delay was completely unnecessary.

### **III. Conclusion**

Based on the previous discussion, it is clear that continuation of the public notice requirements with the Commission is duplicative and unnecessary. Carriers can and do use the ILECs Internet website to obtain information about network changes. Requiring ILECs to send

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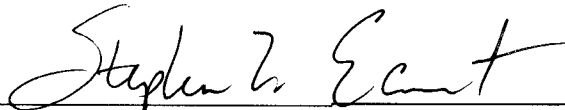
<sup>8</sup> Network work forces are scheduled very tightly in order to operate efficiently. When a change cannot occur as planned it causes a ripple effect throughout many departments. Thus, the impact on BellSouth is more than merely a few days or weeks delay when the Public Notice is delayed at the Commission.

<sup>9</sup> Indeed, no carrier has ever filed an objection to any network change that BellSouth has implemented since the rules were established in 1996. This demonstrates that the changes that have gone into effect have had little or no negative impact on the carriers.

public notice to the Commission does not benefit the carriers and therefore does not serve the public interest. Accordingly, the Commission should eliminate the public notice requirements.

Respectfully submitted,

BELLSOUTH CORPORATION

By:   
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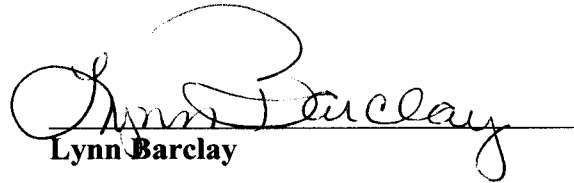
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Dated: November 4, 2002

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 4<sup>th</sup> day of November 2002 served the parties of record to this action with a copy of the foregoing **REPLY COMMENTS OF BELL SOUTH** by Electronic Mail and U.S. Mail addressed to the parties listed on the attached service list:

  
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